

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.,
PELVIC SUPPORT SYSTEMS
PRODUCTS LIABILITY LITIGATION

MDL No. 2327

TERRESKI MULLINS, et al.,

Plaintiffs,

v.

Civil Action No. 2:12-cv-02952
(*Consolidated Case*)

ETHICON, INC., et al.

Defendants.

ORDER

Pending before the court is Plaintiff's F.R.C.P. 25 Motion for Substitution of Parties, filed on March 21, 2016 [ECF No. 319] and plaintiff's Amended Motion for Substitution of Party filed on March 30, 2016 [ECF No. 339]. In the Amended Motion, plaintiff Samuel Gillum requests that he be substituted as the Administrator of the Estate of Karen Sue Gillum, who died during the pendency of this action. Defendants, citing *Stanley v. Sewell Coal Co.*, 285 S.E. 2d 679, 683 (W. Va. 1981), have responded to the Amended Motion stating that because of the remedial nature and liberal construction afforded to W. Va. Code § 55-7-8a, they do not oppose the substitution of the deceased party, but do not waive any affirmative defenses, including the limitations of actions. Notably, Defendants' Motion for Summary Judgment, filed on August 1, 2016 [ECF No. 1119], seeks summary judgment on the basis that the plaintiffs' claims are barred by the statute of limitations in West Virginia.

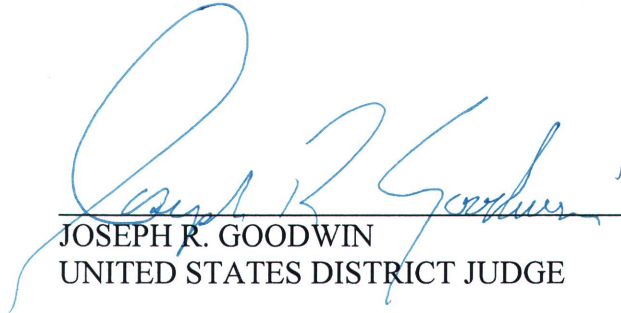
Pursuant to Rule 25(a)(1) of the Federal Rules of Civil Procedure, it is **ORDERED** that the Amended Motion for Substitution of Party [ECF No. 339] is **GRANTED** to the extent

plaintiffs seek substitution, but is otherwise **DENIED**. Summary Judgment motions, including those based on the statute of limitations, will be addressed at a later time. It is further **ORDERED** that the Motion for Substitution of Parties [ECF No. 319] is **DENIED as moot**.

The Clerk is **DIRECTED** to substitute Samuel W. Gillum as Administrator of the Estate of Karen Sue Gillum, deceased, for plaintiff Karen Sue Gillum. The claim of Samuel Gillum remains. The plaintiffs should appear on the case style as: Plaintiff: Samuel W. Gillum as Administrator of the Estate of Karen Sue Gillum, deceased; and, Plaintiff: Samuel Gillum.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: December 9, 2016



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE